THE HON'BLE SRI JUSTICE B. SESHASAYANA REDDY

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WRIT PETITION NO.24062 OF 2004

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Dated: 22.08.2005

Between:

1 Yarlagadda Prabhakarrao, S/o. Surya Prakasarao, Hindu,
Residing at Plot No. 47, Pandurangapuram, Visakhapatnam and 6

others..

..... PETITIONERS

AND

The Special Deputy Collector, Land Acquisition,

A.P.I.I.C. Industrial Estate,
Visakhapatnam.

.....RESPONDENT

THE HON'BLE SRI JUSTICE B. SESHASAYANA REDDY

-

WRIT PETITION NO.24062 OF 2004

ORDER:

This writ petition has been filed by the petitioners with a prayer to issue a Writ or order more particularly one in the nature of Writ of Mandamus directing the respondent-Special Deputy Collector, Land Acquisition, A.P.I.I.C., Industrial Estate, Visakhapatnam, to comply with the request of the petitioners made under legal notice dated 20.04.1993 to make a reference to the Civil Court under Section 18 of the Land Acquisition Act (for short “the Act”) for enhancement of compensation for

the lands pertaining to Award No. 4/93, dated 30.03.1993.

The grievance of the petitioners is that they received compensation without prejudice to their rights in claiming enhanced compensation, and thereupon, the respondent has not taken any steps to refer the matter to the Civil Court for adjudication under Section 18 of the Act.

The respondent filed counter affidavit. It is stated in the counter affidavit that reference was made to the Civil Court under Section 18 of the Act, and the Civil Court assigned O.P. numbers in respect of certain claimants and so far as the present writ petitioners are concerned, their claims were disallowed on the ground that the petitioners were not present before the Court when the case was called for. I deem it appropriate to refer paragraph 5 of the counter affidavit, which reads thus:

> "In reply to the averments made in para 5 of the petitioners affidavit it is submitted that the petitioners herein have got issued a legal notice to this respondent requesting to intimate the present stage of the cases referred to the Civil Court. They have also applied for a copy of Award No.4/93 dated 30.03.1003 through their counsel and accordingly copy of Award was supplied to the petitioners on 17.07.2004. In so far as the request of the petitioners for intimating the present stage of the reference under Section 18 of the Civil Court is concerned, it is humbly submitted that the petitioners as well as other claimants were informed earlier itself that their cases were referred to the Civil Court on the applications made by them seeking reference. It is open to the petitioners to approach the Civil Court for pursuing their cases. But the petitioners have got issued the notice to this respondent with regard to the present stage of the case referred to the Civil Court. However, on the request made by the Petitioners, this respondent has requested the Assistant Government Pleader, Anakapalli, to inform the present stage of the cases relating to the Petitioners pertaining to the Award bearing No.4/93 dated 30.03.1993. Accordingly, the Assistant Government Pleader, Anakapalli, has informed to this Office stating that the learned Subordinate Judge's Court, Anakapalli has assigned O.P. Numbers to the certain applications referred under Section 18 of Land Acquisition Act excepting the application of the Writ Petitioners which were disallowed by the Hon'ble Court on the ground that the petitioners were not present before the Hon'ble Court when called for. Having known the said fact to the petitioners as well as their Counsel that the petitioners' claims were disallowed, they once again approached the Land Acquisition Officer for obtaining the present stage of their cases, instead of approaching the Civil Court. Suppressing the above said facts, the petitioners filed the present Writ Petition before this Hon'ble Court. Having failed to appear before the Civil Court and pursue their cases relating to Section 18 reference, the petitioners cannot file the present Writ Petition before this Hon'ble Court which is not maintainable under law. The Writ Petition is devoid of merits and is liable to be dismissed."

Heard learned counsel for the petitioners and learned Government Pleader for Land

Acquisition appearing for the respondent.

Learned counsel for the petitioners submits that though the petitioners received compensation under protest, the respondent has not taken any steps to refer the matter to the Civil Court under Section 18 of the Act.

Per contra, learned Government Pleader for Land Acquisition appearing for the respondent submits that the reference was already made to the Civil Court and the Civil Court assigned certain OP numbers and so far as the writ petitioners are concerned the Court disallowed their claims because of their non-appearance.

It is not clear from the counter affidavit as to whether any number has been assigned to the claim of the writ petitioners or not. Such is the situation, I deem it appropriate to direct the respondent to inform the O.P. number to the petitioners within a period of four weeks from the date of receipt of a copy of this order, and thereupon, the petitioners have to work out their remedies according to law.

With the above direction, the writ petition is disposed of. No order as to costs.

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(B. SESHASAYANA REDDY, J)

Date: 22.08.2005

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